

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILINGS OF WOOD CREEK	)	
WATER DISTRICT, WASTEWATER	)	CASE NO. 2003-00110
DIVISION TO ADD A SOURCE WATER	)	
PROTECTION CHARGE	)	

O R D E R

On March 14, 2003, Wood Creek Water District, Wastewater Division, ("Wastewater Division") submitted a prepared tariff sheet wherein it proposes to assess a \$0.23 per 1,000 gallon source water protection charge to all customers receiving service from the Wood Creek Water District, Water Division ("Water Division"). The Water Division currently provides retail water service to 4,644 customers in Laurel County, Kentucky and wholesale service to West Laurel Water Association, Inc., East Laurel Water District, and the city of Livingston. Currently the Water Division withdraws its water from the Wood Creek Lake. By its Order of April 8, 2003, the Commission granted full intervention to the Attorney General of the Commonwealth of Kentucky

The Wastewater Division's original \$4.4 million watershed protection project consisted of: (1) constructing a \$4 million wastewater treatment facility with a 500,000 gallon-per-day ("gpd") capacity; (2) constructing collection lines to all wastewater producers in the Wood Creek Lake watershed area; and (3) purchasing land contiguous to Wood Creek Lake to control silt infiltration. To fund its proposed watershed protection project, the Wastewater Division estimates that it can obtain a \$4.4 million

loan with an interest rate of 4.5 percent per annum and a term of 40 years, which results in an annual debt service of \$240,000. Using the annual debt service of \$240,000 and water sales of approximately 1.047 million gallons, the Wastewater Division arrived at its \$0.23 per 1,000 gallon source water protection charge.

An informal conference was conducted on May 29, 2003 for the purpose of discussing all aspects of the Wastewater Division's proposed source protection charge. Following the informal conference, the Wastewater Division revised its watershed protection project to exclude the \$4 million wastewater treatment facility, but increased its cost estimate of the total project to approximately \$4.7 million as shown in the table below:

Description	Amount
200 Acres Rocky Branch	\$ 1,250,000
100 Acres Below Dam	300,000
60 Acres Billy Branch	500,000
37 Acres Full Moon Cove	300,000
10 Acres Upper Gillis Creek	40,000
15 Acres Wood Creek	50,000
Service Line – North U. S. Highway 25	1,332,200
Service lines Old Crab Orchard Road	985,501
Total Revised Watershed Protection Project	\$ 4,757,701

Before constructing its watershed protection project, the Wastewater Division is required to apply to the Commission for a Certificate of Public Convenience and Necessity ("CPCN"), approval of the financing, and approval of the charge on the Water Division. In this proceeding, the Wastewater Division has failed to produce the information necessary for the Commission to render a decision regarding any of the aforementioned aspects of the proposed project.

The Wastewater Division did not produce an engineering report describing in detail the proposed project or showing the impact the land purchase will have on the

silt-infiltration problem. At the informal conference, Wood Creek admitted that it has not started the process of seeking project funding. No testimony was provided that explained why it is reasonable for the operations of the Water Division to subsidize the Wastewater Division through the implementation of the \$0.23 per 1,000 gallon charge. Moreover, the Wastewater Division did not submit sufficient detailed financial information to enable the Commission to allocate the costs of the project equitably among the Water and Wastewater Divisions' customers.

Normal and usual construction, financing, and rate processes that are supported by KRS Chapter 278 and the regulations promulgated thereunder do not address or provide for a source water protection charge as proposed by the Wastewater Division. Moreover, the proposed \$0.23 per 1,000 gallon charge is not one that is authorized as an assessment or surcharge pursuant to KRS Chapter 74. The general plans presented were, in short, inadequate to support the Wastewater Division's application.

The Commission is sensitive to and concerned about the growing need to protect vital sources of potable water such as Wood Creek Lake. Nevertheless, in the absence of additional legislation specifically addressing source water protection charges, the Commission is limited to the procedures provided by the existing statutes and regulations. The Wastewater Division should submit its application in the format of a CPCN, finance, and rate case that would include the filing requirements described in: 807 KAR 5:001, Section 9; 807 KAR 5:001, Section 10; and 807 KAR 5:001, Section 11. Copies of the filing requirement checklist can be obtained at the Commission's Web site (<http://psc.ky.gov>). Commission Staff is available to provide assistance to the Wastewater Division in preparing its application.

Currently the Wastewater Division has no treatment facilities of its own and pipes all of its wastewater to the city of London for treatment. The original proposal included construction of a new 500,000 gpd treatment facility that has since been eliminated. It has come to the Commission's attention that the city of London is currently in the process of upgrading and expanding its treatment facilities. The Commission urges the Wastewater Division, prior to beginning the process to construct its own wastewater treatment facility, to work closely with the city of London and fiscal court to avoid unnecessary and expensive duplication of treatment facilities.

Based on the foregoing, the Commission finds that the application should be rejected.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that the application herein is rejected and this case is dismissed without prejudice.

Done at Frankfort, Kentucky, this 11<sup>th</sup> day of December, 2003.

By the Commission

ATTEST:

  
Executive Director